

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications

February 22, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated January 12, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

This letter is to follow up on my telephone conversation of January 12, 1999 regarding your response to our question of collecting sales tax on the sale of a phone card to be combined with an accessory.

We are writing to provide further detail that would allow you to more definitively determine the taxability of such items. Our client is planning to sell a phone card in the form of a metal dog tag that could be worn around the neck or attached to a key ring. The dog tag would have an imprinted picture/logo on the front and the phone card information on the back. The picture/logo would vary and may include such items as: a Mardi Gras scene, an animal scene, a licensed logo, etc.

As we have previously mentioned, we are anxious to prepare a mailing regarding the sale of this product and would appreciate a response as soon as possible. Your response can be faxed to us at ####.

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. Please see the copy of 86 Ill. Adm. Code Part 495, enclosed.

Generally, sales of telephone cards by retailers are not subject to Retailers' Occupation Tax because they are an intangible. The Retailers' Occupation Tax applies only to sales of tangible personal property. However, the Telecommunications Excise Tax consequences from sales of cards by retailers may vary depending upon whether we would deem the retail stores to be retailers of telecommunications.

In some cases, retail stores purchase telephone cards from telephone service providers and then sell the cards to customers at marked-up prices. In this scenario, we do not consider the retail stores to be retailers of telecommunications. In that case, the retail store is not responsible for collecting Telecommunications Excise Tax at the point of sale of the card to its customer or at any other point. The tax is incurred at the time the telecommunications originate or are received in a taxable manner, and the amount of telecommunications charges for which the cards are redeemed by the telephone service providers would include any amount of Telecommunications Excise Tax incurred. The telephone service providers charge the phone calls and the tax against the balance of the cards as they are responsible for collecting and remitting the tax.

However, in other cases, the stores may purchase telecommunications units from telephone service providers and sell them at retail to their customers. This situation is similar to hotels that sell telecommunications services. See section 495.110. In these cases the retail stores would be required to register as telecommunications retailers and collect and remit Telecommunications Excise Tax. The tax base would be the amounts charged to card purchasers for the taxable services subsequently provided (i.e. calls that originate or terminate in Illinois).

When cards are sold in Illinois, the Department presumes calls will originate or terminate in this State. Retail stores have the burden to establish that charges are exempt from the Telecommunications Excise Tax. The only way to document this would be through records of the telephone service providers. Therefore, as a practical matter, because retail stores will not know when sales are made what taxable services cardholders will later consume, retail stores should charge the tax on the full sales prices of the cards.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.